

2015-12063

Page 1 of 5

Requested By: Board Of Supervisors

Navajo County Recorder - Laura V. Sanchez

09-09-2015 03:32 PM Recording Fee \$0.00

**ORDINANCE NO. 03-15****NAVAJO COUNTY FIREWORKS ORDINANCE**

An ordinance of the Board of Supervisors of Navajo County, Arizona, adopting ordinance No. 03-15 (Navajo County Fireworks Ordinance); prohibiting the sale and use of “permissible consumer fireworks” in the unincorporated areas of Navajo County; establishing a permitting process for public fireworks displays utilizing “display fireworks”; and specifying criminal penalties for the violation of this ordinance.

Upon the Adoption of this Ordinance, Ordinance 01-12 is hereby repealed.

**1.) TITLE**

This ordinance shall be known as the Navajo County Fireworks Ordinance.

**2.) EFFECTIVE AREA**

This ordinance shall be effective in the unincorporated areas of Navajo County, excluding areas under the jurisdiction of the United States, the State of Arizona, or a federally recognized Indian tribe.

**3.) AUTHORITY/PURPOSE**

This ordinance is established in accordance with A.R.S. § 36-1606 which authorizes the county to regulate the sale and use of “permissible consumer fireworks” within the unincorporated areas of the county. Additionally, the County is required by A.R.S. § 36-1603 to implement a permitting process for “display fireworks” utilized in public fireworks displays.

The purpose of this statute is to reduce and minimize the risk of fire dangers, including structural or wildland fires, associated with the use of fireworks in Navajo County, and to help ensure the safety of Navajo County residents attending public fireworks displays in unincorporated areas of the County.

#### **4.) DEFINITIONS**

For the purposes of this ordinance, the terms "consumer firework," "display firework," "fireworks," "permissible consumer fireworks," and "supervised public display" shall have the same meanings as set forth in A.R.S. § 36-1601.

#### **5.) PROHIBITION ON USE OF FIREWORKS**

Except as specifically allowed in this ordinance, the sale, use, discharge or ignition of fireworks, including consumer fireworks, permissible consumer fireworks or display fireworks, in the unincorporated areas of Navajo County shall be unlawful.

This prohibition shall not apply to the use, discharge, or ignition of novelty items such as snappers, snap caps, party poppers, glowworms, snakes, toy smoke devices, and certain toys as defined in A.R.S. § 36-1601.

#### **6.) USE OF PERMISSIBLE CONSUMER FIREWORKS**

In accordance with state statute, the use of permissible consumer fireworks shall be permitted only between June 24 through July 6 and December 24 through January 3 of each year. The use of consumer fireworks during these times shall be suspended if stage 1 or higher fire restrictions implemented by a federal or state agency are in place within Navajo County.

The use of permissible consumer fireworks on county owned property, including county parks, county owned open spaces, and public streets is prohibited at all times.

#### **7.) SALE OF PERMISSIBLE CONSUMER FIREWORKS**

In accordance with state statute, the sale of permissible consumer fireworks shall be permitted only between May 20 through July 6 and December 10 through January 3 of each year. The sale of consumer fireworks during these times shall be suspended if stage 1 or higher fire restrictions implemented by a federal or state agency are in place within Navajo County.

#### **8.) DISPLAY FIREWORKS**

Any person, entity, or organization may apply to the Navajo County Board of Supervisors for a permit for the use of display fireworks and other fireworks as part of a supervised public display. Any use of display fireworks or fireworks not included within the definition of permissible consumer fireworks without a permit is prohibited.

### **A.) Applications**

Applications to conduct a public display of fireworks using display fireworks shall be submitted to the Clerk of the Board of Supervisors on a form prescribed by the Board of Supervisors not more than one-hundred twenty days (120), but not less than sixty (60) days, prior to the date of the proposed display.

### **B.) Bond**

The Application submitted to the Clerk of the Board must be accompanied by a statement that the Applicant is willing to provide a bond in an amount not less than \$500.00, or in such other amount as deemed appropriate by the Board of Supervisors not to exceed one-million (\$1,000,000) dollars. Alternatively, an applicant may provide proof of liability insurance in a similar amount along with a letter from the issuing insurance company indicating that the applicant's insurance will cover the applicant for liability connected to this event. Failure of an applicant to submit a bond or proof of insurance to the Clerk of the Board of Supervisors prior to the time of the event shall result in the automatic nullification of the permit.

### **C.) Application Requirements**

Applications must be accompanied by a map of the display area, which designates the proposed seating area for spectators, nearby structures, parking areas, public roads, the fallout zone, overhead lines, and fire department access to the area.

### **D.) Review of Applications**

After receipt of the Application by the Clerk of the Board of Supervisors, all applications for public fireworks displays shall be reviewed by the Navajo County Sheriff pursuant to A.R.S. 13-3603, who shall visit and inspect the display area. The Sheriff shall either recommend that the Board of Supervisors approve or disapprove the application. The Sheriff may recommend approval if it is determined that:

- a.) This display will be supervised by a competent pyrotechnic operator. In determining whether that qualification has been met, the Sheriff shall consider the operator's qualifications, experience, training, and/or certification;
- b.) It appears that the fireworks display will be conducted in a safe location that does not create an unreasonable risk of fire danger;
- c.) That the display will be discharged and fired so that it will not be hazardous to property or persons, and that adequate fallout zones have been designated that are a sufficient distance from the viewing area;

- d.) If the display is not within the boundaries of an approved fire district, the evidence of the availability of services from an adjacent fire district or department has been provided. It shall be the responsibility of the Applicant to obtain a letter of approval from the fire district or department.
- e.) The manner and storage of the fireworks appears to be safe.
- f.) The organization has provided a sufficient bond or proof of liability insurance.

For purposes of conducting reviews of applications, the Sheriff's Office shall retain at least one person on staff who has received training in pyrotechnic displays and is familiar with the requirements and standards for public fireworks displays set forth by the National Fire Protection Association, including Section 1123, Code for Fireworks Displays.

#### **E.) Decision on Application**

The Sheriff shall complete the investigation at least fifteen days prior to the date of the proposed display. Upon completion of the investigation, the Sheriff shall submit a written recommendation to the Board of Supervisors that either 1.) Recommends that the Board of Supervisors grant the Application and approve the plan as submitted by the Applicant, 2.) Recommends that the Board of Supervisors deny the Application, or 3.) Recommends that the Board of Supervisors approve the Application if the Applicant will agree to modifications of the plan or special conditions upon the permit.

Upon receipt of the Sheriff's report, the Board of Supervisors will conduct a hearing. At the time of the hearing, the Board shall consider the findings of the Sheriff and allow the Applicant an opportunity to be heard. After doing so, the Board shall make a decision on the Application.

#### **F.) Standard Conditions of Permit**

All permits for public fireworks displays issued by the Board of Supervisors shall be conditioned on the following:

- a.) That the fireworks be used and stored by the Applicant in a manner consistent with the standards set forth by the National Fire Protection Association, including Section 1123, Code for Fireworks Display;
- b.) That any permit issued shall be valid only for the date stated on the permit and 48 hours following the scheduled date of the display in the event it needs to be rescheduled due to weather or other conditions.

c.) That the Applicant has provided the County proof of a bond or insurance in the amount required by the Board of Supervisors.

**G.) Transfer/Assignability**

After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. Permits issued by the Board of Supervisors pursuant to this Ordinance shall not be transferrable or assignable.

**H.) Validity of Permit**

All permits for display fireworks issued pursuant to this section are valid regardless of any outdoor fire restrictions or emergency fire restrictions that the County may have in place.

**9.) CIVIL PENALITIES**

Any person responsible for violating a provision of this ordinance is subject to a civil penalty not to exceed one-thousand dollars.

**SO ORDAINED** by the Navajo County Board of Supervisors at Holbrook, Arizona on September 8, 2015.

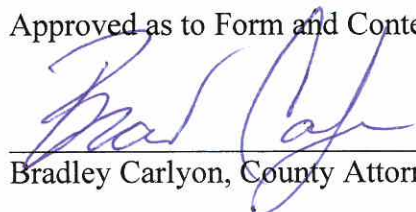
**NAVAJO COUNTY BOARD OF SUPERVISORS**

By  \_\_\_\_\_  
Dawnafe Whitesinger, Chairwoman

ATTEST:

 \_\_\_\_\_  
Melissa W. Buckley, Clerk of the Board of Supervisors

Approved as to Form and Content:

 \_\_\_\_\_  
Bradley Carlyon, County Attorney